

Senate Study Bill 1089

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CO=CHAIRPERSON BEHN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation and deregulation of
2 communications services including the determination of
3 comparable services, the consideration of market forces,
4 providing for expedited deregulation proceedings, eliminating
5 accounting plan requirements, eliminating reporting
6 requirements to the general assembly, and providing an
7 effective date.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
9 TLSB 2064XC 81
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1 1 Section 1. Section 476.1D, subsections 1, 2, and 3, Code
1 2 2005, are amended to read as follows:
1 3 1. Except as provided in this section, the jurisdiction of
1 4 the board as to the regulation of communications services is
1 5 not applicable to a service or facility that is provided or is
1 6 proposed to be provided by a telephone utility that is or
1 7 becomes subject to effective competition, as determined by the
1 8 board.
1 9 a. In determining whether a service or facility is or
1 10 becomes subject to effective competition, the board shall
1 11 consider, among other factors, whether a comparable service or
1 12 facility is or may reasonably be expected to become available
1 13 from a supplier other than the telephone utility in the
1 14 geographic market being considered by the board and whether
1 15 market forces in that market are sufficient to assure just and
1 16 reasonable rates without regulation.
1 17 b. The board shall consider all of the following services
1 18 as comparable services or facilities to wireline
1 19 communications services:
1 20 (1) Wireless communications services.
1 21 (2) Cable telephony services.
1 22 (3) Voice over internet protocol services.
1 23 c. When considering market forces in the market proposed
1 24 to be deregulated, the board shall consider factors including
1 25 but not limited to the presence or absence of all of the
1 26 following:
1 27 (1) Wireless communications services.
1 28 (2) Cable telephony services.
1 29 (3) Voice over internet protocol services.
1 30 (4) Economic barriers to the entry of competitors or
1 31 potential competitors in that market.
1 32 d. If one or more telephone utilities providing wireline
1 33 or cable telephony services, other than an incumbent telephone
1 34 utility, offers local exchange services in a particular
1 35 exchange using switching, distribution, or loop facilities not
2 1 provided by an incumbent telephone utility, the board shall
2 2 find that effective competition exists for that exchange and
2 3 the incumbent utility may file a request for expedited
2 4 deregulation proceedings for the exchange affected. The
2 5 request for expedited deregulation shall describe the exchange
2 6 alleged to be affected. Within thirty days after the request
2 7 is filed and after opportunity for a hearing, the board shall
2 8 issue an order granting or denying the request.
2 9 (1) For the purposes of this subsection, a telephone
2 10 utility providing wireline or cable telephony services shall
2 11 be deemed to be offering local exchange services in an

2 12 exchange when the utility does any of the following:

2 13 (a) Advertises using mass media regarding the availability

2 14 of local exchange services in the exchange from the utility.

2 15 (b) Engages in any other marketing activity directed to

2 16 existing or potential local exchange service customers in the

2 17 exchange.

2 18 (c) Accepts orders for local exchange services to be

2 19 provided by the utility in the exchange.

2 20 (d) Provides local exchange services in the exchange.

2 21 (2) For the purposes of this subsection, "exchange" means

2 22 the same as defined in the service territory maps of the

2 23 incumbent telephone utility on file with the board.

2 24 e. In addition to other services or facilities previously

2 25 deregulated, effective July 1, 2005, the jurisdiction of the

2 26 board is not applicable to the regulation of any of the

2 27 following services:

2 28 (1) Business local exchange services provided throughout

2 29 the state.

2 30 (2) Residential additional line services provided

2 31 throughout the state.

2 32 2. Deregulation Except as provided in subsection 1,

2 33 paragraph "e", deregulation of a service or facility for a

2 34 utility is effective only after all of the following:

2 35 a. A finding of effective competition by the board.

3 1 b. Election by a utility providing the service or facility

3 2 to file a deregulation accounting plan but only if the utility

3 3 providing the service or facility is subject to rate-of-return

3 4 regulation at the time deregulation becomes effective. A

3 5 deregulation accounting plan shall not be required for a

3 6 utility operating under a price plan for the service or

3 7 facility proposed to be deregulated.

3 8 c. Approval of a utility's deregulation accounting plan by

3 9 the board, if a plan is required.

3 10 3. If the board determines a service or facility is

3 11 subject to effective competition and approves the utility's

3 12 deregulation accounting plan, if a plan is required, the board

3 13 shall deregulate the service or facility within a reasonable

3 14 time.

3 15 Sec. 2. Section 476.98, Code 2005, is repealed.

3 16 Sec. 3. EFFECTIVE DATE. This Act, being deemed of

3 17 immediate importance, takes effect upon enactment.

3 18 EXPLANATION

3 19 This bill relates to the regulation and deregulation of

3 20 communications services by the utilities board of the

3 21 utilities division of the department of commerce.

3 22 Under current law, before deregulating communications

3 23 services, the board must determine whether the communications

3 24 service or facility provided is subject to effective

3 25 competition by considering whether a comparable service is

3 26 being provided by another supplier in the same geographic

3 27 market and whether market forces in that market are sufficient

3 28 to assure just and reasonable rates without regulation. The

3 29 bill requires the board to consider whether a comparable

3 30 service may reasonably be expected to become available from

3 31 another supplier rather than only whether the service is

3 32 actually available from another supplier. The bill also

3 33 directs the board to consider wireless communications

3 34 services, cable telephony services, and voice over internet

3 35 protocol services to be services or facilities comparable to

4 1 wireline communications services. The bill directs the board

4 2 to consider, when considering market forces in a market

4 3 proposed to be deregulated, the presence or absence of

4 4 wireless communications services, cable telephony services,

4 5 voice over internet protocol services, and economic barriers

4 6 to the entry of competitors or potential competitors in that

4 7 market. The bill directs the board to find that effective

4 8 competition exists in an exchange where a telephone utility

4 9 offers local exchange services using switching, distribution,

4 10 or loop facilities that are not provided by the incumbent

4 11 telephone utility for that exchange. Where such effective

4 12 competition exists, the incumbent telephone utility may

4 13 request an expedited deregulation proceeding before the board.

4 14 The bill provides that effective July 1, 2005, all business

4 15 local exchange services and residential additional line

4 16 services shall no longer be regulated by the board.

4 17 The bill provides that a deregulation accounting plan shall

4 18 be filed only if the utility is subject to rate-of-return

4 19 regulation. A deregulation accounting plan is not required

4 20 for a utility operating under a price plan for the service or

4 21 facility proposing to be deregulated.

4 22 The bill repeals Code section 476.98 requiring the consumer

4 23 advocate to calculate an estimate of the return of a local
4 24 exchange carrier operating under price regulation as if the
4 25 carrier were subject to rate-of-return regulation, and to
4 26 provide a report to the general assembly regarding the results
4 27 of the calculation and a recommendation as to requiring a
4 28 different form of rate regulation.
4 29 The bill takes effect upon enactment.
4 30 LSB 2064XC 81
4 31 kk:nh/sh/8